

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

SCHAWBEL TECHNOLOGIES LLC,

*Plaintiff,*

v.

THE HEAT FACTORY USA, INC.,

*Defendant.*

Civil Action No. 18-CV-10227-LTS

**JOINT STATEMENT OF THE PARTIES**

The parties in the above-referenced matter submit the following Joint Statement pursuant to the Notice of Scheduling Conference issued by the Court on March 15, 2018, Fed.R.Civ. P. 16(b), Fed.R.Civ.P 26(f) and Local Rule 16.1.

**I. Introduction**

The parties have conferred and discussed an agenda of matters to be addressed at the scheduling conference, a proposed discovery and pre-trial schedule, including the necessity of a supplemental patent infringement scheduling order pursuant to Local Rule 16.6, and whether they will consent to a trial by a Magistrate Judge.

**II. Joint Discovery Plan**

As a preliminary matter, Defendant Heat Factory USA, Inc. anticipates filing a Motion to Dismiss or Transfer Venue no later than May 31, 2018. Accordingly, the Defendant requests that the deadlines proposed below be stayed pending resolution of that Motion. Plaintiff does not join in this request.

1. Initial Disclosures: The parties will serve their initial disclosures by June 22, 2018.

2. Amendments to Pleadings: The parties will add new parties or amend the pleadings to assert new claims or defenses by July 6, 2018.
3. Fact Discovery - Interim Deadlines:
  - a. Written Discovery: All Interrogatories, Requests for Production of Documents and Requests for Admissions shall be served by August 31, 2018.
  - b. Deposition of Fact Witnesses: The depositions of all fact witnesses to be completed by November 2, 2018.
4. Fact Discovery – Final Deadline: All discovery, other than expert discovery will be completed by December 14, 2018.
5. Status Conference: The parties agree to a status conference to be held on January 14, 2019 or another date as soon thereafter as convenient for the Court.
6. Expert Discovery:
  - a. The Plaintiff shall identify all expert witnesses pursuant to Fed. R. Civ. P. 26(a)(2) by January 15, 2019.
  - b. Depositions of all Plaintiff's experts shall be completed by February 15, 2019.
  - c. The Defendant shall identify all expert witnesses pursuant to Fed. R. Civ. P. 26(a)(2) by February 15, 2019.
  - d. Depositions of all Defendants' experts shall be completed by March 15, 2019.
7. Dispositive Motions:
  - a. All dispositive motions shall be filed by April 12, 2019.

b. Oppositions to dispositive motions must be filed within 30 days after service of the motion.

c. A hearing on any dispositive motions shall be held in May, 2019 or as soon thereafter as is convenient for the Court.

8. Initial Pre-Trial Conference: A Final Pre-Trial Conference shall be held thirty (30) days after a ruling on any summary judgment motion. If dispositive motions are not filed, the final pre-trial conference will be held in May, 2019 or as soon thereafter as is convenient for the Court.

### **III. Local Rule 16.6 Schedule**

The parties have considered the necessity of a supplemental scheduling order pursuant to Local Rule 16.6. In Count II of its Complaint, Schawbel has asserted a claim for patent infringement based upon Heat Factory's alleged continuing sale and use of certain of Schawbel's patents following the alleged termination of a patent license agreement between the parties. Among other defenses, Heat Factory denies that the license agreement has been terminated and, as such, Heat Factory denies any patent infringement. Schawbel's claim for patent infringement thus depends, in part, on the Court's determination of whether the license agreement has been terminated or remains in effect. The parties therefore request that the Court order that any proceedings pursuant to Local Rule 16.6 occur, if necessary, only after a determination of whether the license agreement has been terminated.

### **IV. Trial By Magistrate**

The parties do not consent to trial of this action by magistrate judge.

**V. Rule 16 Conference**

Pursuant to the Court's Notice of Scheduling dated March 15, 2018, the parties respectfully recommend that the Court convene the in-person Initial Scheduling Conference set for May 23, 2018.

**VI. Certifications**

The parties will file their Local Rule 16.1(d)(3) certifications as required by the Local Rules.

Respectfully submitted,

SCHAWBEL TECHNOLOGIES LLC

By its attorneys,

/s/ Michael P. Connolly

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THE HEAT FACTORY USA, INC.

By its attorneys,

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**Certificate of Service**

I hereby certify that this document(s) filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on May 18, 2018.

/s/ Michael P. Connolly  
Michael P. Connolly